

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 3028

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 13, 2017

The Senate Environment and Energy Committee favorably reports Senate Bill No. 3028 with committee amendments.

This bill would establish standards for food date labeling and require the Department of Health to establish a public education program and guidelines related to food safety.

Under the bill, as amended, a manufacturer may use food date labeling, but is required, if food date labels are used, to follow the labeling standards provided in the bill. A food date label may indicate either: (1) a “quality date” to indicate the date after which the quality of food may begin to deteriorate, but is still acceptable for consumption; or (2) an “elevated-risk date” to indicate the date, established by the manufacturer, after which there is a high level of risk associated with the consumption of a “time/temperature control for safety food.” The bill defines a “time/temperature control for safety food” as a food that requires time/temperature control for safety, in accordance with the 2013 United States Food and Drug Administration Food Code, to limit pathogenic microorganism growth or toxin formation. Quality dates would be displayed with the uniform phrase “BEST if Used By” and elevated-risk dates would be displayed with the uniform phrase “USE By.”

Under the bill, a retail food facility would not be liable for a manufacturer’s failure to properly label food in accordance with the bill. Nothing in the bill would prohibit the sale, donation, or use of food after the food’s quality date has passed. However, a retail food facility would be prohibited from selling or donating food after its elevated-risk date. A retailer would also be prohibited from selling food labeled with a “sell-by” date, or any date that is intended to communicate primarily to a distributor or retailer for purposes of stock rotation and that is not a quality date or an elevated-risk date, unless the date is in a coded format not easily readable by consumers.

The bill would also change the labeling requirements that must be used for fluid milk products from “sell by” or “not to be sold after” to a quality date label as described above. Alcoholic beverages would be exempt from the bill’s provisions.

The bill allows the Department of Health to designate additional foods as time/temperature control for safety foods, or exempt foods

from the designation. The department would post this information on its Internet website.

The bill would also require the establishment of a public education program, which would include a public information campaign about the meaning of date labels, and educating consumers on how to handle food properly and when it can safely be consumed.

The committee amendments to the bill:

(1) provide a definition for the term “food,” and exclude alcoholic beverages from the bill’s provisions;

(2) change the uniform phrase for elevated-risk dates from “expires on” to “USE By”;

(3) change the bill’s effective date to August 1, 2018, and provide that the bill would become inoperative upon the adoption and implementation of federal law establishing food labeling standards; and

(4) make technical corrections to the bill.